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1 Magistrate Judge Theresa L. Fricke
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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

9 UNITED STATES OF AMERICA,

10 Plaintiff,

11 v.
12 MICHAEL JASON LAYES a/k/a
13 MIKEY DIAMOND STARRETT,

14 Defendant.

CASE NO. MJ21-5189

COMPLAINT for VIOLATION

15
16 Title 26, United States Code, Sections 5861(d)
17 and 5845(a)(2)

18 BEFORE the Honorable Theresa L. Fricke, United States Magistrate Judge, Tacoma,
19 Washington.

20 The undersigned complainant being duly sworn states:

COUNT 1

(Unlawful Possession of an Unregistered Firearm)

21 On or about September 8, 2021, in Olympia, Washington, within the Western Judicial
22 District of Washington, MICHAEL JASON LAYES a/k/a MIKEY DIAMOND STARRETT
23 did knowingly possess a firearm, that is, a Remington 870 Express Magnum, 12-gauge
24 shotgun bearing Serial Number C568363M, a weapon made from a shotgun having a barrel
25 length of less than 18 inches and an overall length of less than 26 inches, which was not
26 registered to him in the National Firearms Registration and Transfer Record.

27 All in violation of Title 26, United States Code, Sections 5861(d) and 5845(a)(2).

The undersigned complainant being duly sworn further states:

1. I, Kit Rasosevich, am a Special Agent with the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), and have been so employed since 2015. As a Special Agent, I am authorized to investigate violations of laws of the United States, and to execute warrants issued under the authority of the United States. I am familiar with and have received formal training regarding the enforcement of federal firearms, arson, and explosives laws, including completion of the Federal Law Enforcement Training Center's Criminal Investigator Training Program, and ATF's Special Agent Basic Training Program in Glynco, Georgia. During my employment, I have also conducted, and participated in a variety of investigations, including investigations into violations of federal arson and explosives laws. Prior to joining the ATF, I worked as a corporate accountant and I maintain a license as a Certified Public Accountant (CPA).

2. The information set forth in this affidavit is the result of an investigation I have conducted along with the FBI and local law enforcement. It is based upon my own investigation, police reports, the investigation conducted by others, and the details related to me by others familiar with this matter. Because this affidavit is made for the limited purpose of establishing probable cause, I have not listed each and every fact known to me concerning this investigation. I have set forth only the facts that I believe are necessary to establish probable cause to believe that MICHAEL JASON LAYES a/k/a MIKEY DIAMOND STARRETT committed the aforementioned crime.

PURPOSE OF AFFIDAVIT

3. This Affidavit is made in support of a Complaint against MICHAEL JASON LAYES a/k/a MIKEY DIAMOND STARRETT for one count of *Unlawful Possession of an Unregistered Firearm*, in violation of Title 26, United States Code, Sections 5861(d) and 5845(a)(2).

RELEVANT STATUTES

4. The National Firearms Act, Title 26, United States Code, Section 5861(d), makes it unlawful for any person “to receive or possess a firearm which is not registered to him in the National Firearms Registration and Transfer Record.”

5. As relevant here, Title 26, United States Code, Section 5845(a)(2) defines “firearm” for the purposes of the Title to include “a weapon made from a shotgun if such weapon as modified has an overall length of less than 26 inches or a barrel or barrels of less than 18 inches in length.”

6. Title 26, United States Code, Section 5845(d) defines "shotgun" as "a weapon designed or redesigned, made or remade, and intended to be fired from the shoulder and designed or redesigned and made or remade to use the energy of the explosive in a fixed shotgun shell to fire through a smooth bore either a number of projectiles (ball shot) or a single projectile for each pull of the trigger, and shall include any such weapon which may be readily restored to fire a fixed shotgun shell."

PROBABLE CAUSE

7. On September 3, 2021, the Honorable Theresa L. Fricke, United States Magistrate Judge, Western District of Washington, authorized a search warrant to search the premises located at 1717 Bowman Ave NW, in Olympia, WA (the “SUBJECT PREMISES”), which had been identified as the primary residence of MICHAEL JASON LAYES. *See* MJ21-5186. Public records indicate that in February 2021, LAYES changed his legal name to MIKEY DIAMOND STARRETT.

8. At approximately 6:00 a.m. on Wednesday, September 8, 2021, law enforcement executed the warrant for the SUBJECT PREMISES and conducted a search. Two individuals were present at the SUBJECT PREMISES when law enforcement arrived, MICHAEL JASON LAYES a/k/a MIKEY DIAMOND STARRETT (hereinafter "LAYES") and his girlfriend, a woman with the initials T.A.N.

9. T.A.N. was interviewed by law enforcement and told agents that she and LAYES sleep in different bedrooms. She also told agents that the back bedroom is LAYES'

1 and the front bedroom is her room. T.A.N. stated that although her parents have keys to the
2 house, nobody else spends time in LAYES' bedroom. LAYES' wallet and identification
3 were located in this bedroom.

4 10. While conducting a search of LAYES' bedroom, agents located a weapon
5 made from a Remington 870 Express Magnum, 12-gauge shotgun bearing Serial Number
6 C568363M, wedged between LAYES' bed and the wall the bed was pushed up against. The
7 firearm was tucked between the mattress and the bedroom wall. I have observed that the end
8 of the barrel has brightly colored unfinished/exposed metal with irregular edges that does not
9 match the color or finish of the rest of the barrel. Based on my training and experience, this
10 means that the shotgun was shortened after it was manufactured, and then ground down in an
11 attempt to smooth out rough edges.

12 11. T.A.N. told agents that she does not own any firearms and that all guns in the
13 house belong to LAYES. When showed a picture of the firearm in question, T.A.N. stated
14 that it does not belong to her.

15 12. I consulted with Daniel Hoffman, the Chief of ATF's Firearms Technology
16 Industry Services Branch, regarding the nature of the firearm recovered in LAYES' bedroom
17 on September 8, 2021. I also sent him photographs of the firearm. He told me that based on
18 his training and experience, the weapon was originally manufactured as a shotgun by the
19 Remington Arms Company. Its shoulder stock has been replaced with a crude pistol grip
20 and its barrel cut-down. As modified, the firearm is no longer designed to be fired from the
21 shoulder; therefore, it is no longer a "shotgun" as defined, but it is a "weapon made from a
22 shotgun."

23 13. I measured the overall length of the firearm's barrel and determined the barrel
24 has a length of approximately 14.5 inches. I also measured the overall length of the firearm
25 and determined the overall length is approximately 24.5 inches. As noted above, a weapon
26 made from a shotgun falls under National Firearms Act regulation when it has a barrel length
27 of less than 18 inches or an overall length of less than 26 inches. The firearm found in
28

1 LAYES' bedroom in its current configuration cannot be legally manufactured, possessed or
2 transferred in the United States without NFA registration

3 14. I conducted a records check with the National Firearms Act (NFA) Branch of
4 ATF, and determined the firearm in question is not registered to LAYES with the NFA
5 Branch as a Weapon Made from a Shotgun, as required by law.

6 15. Based on my training and experience as a special agent and the information
7 contained in this Affidavit, I submit there is probable cause to believe that MICHAEL
8 JASON LAYES a/k/a MIKEY DIAMOND STARRETT did unlawfully possess an
9 unregistered firearm, in violation of Title 26, United States Code, Sections 5861(d) and
10 5845(a)(2).

K. Radosevich
KIT RADOSEVICH, Complainant
Special Agent, ATF

Based on the Complaint and Affidavit sworn to before me, the Court hereby finds that there is probable cause to believe the defendant committed the offense set forth in the Complaint.

DATED this 8th day of September 2021.

Theresa L. Fricke
THERESA L. FRICKE
United States Magistrate Judge